

AMERICAN CIVIL LIBERTIES UNION OF
MASSACHUSETTS and LAWYERS FOR
CIVIL RIGHTS,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY, IMMIGRATION
AND CUSTOMS ENFORCEMENT,

Defendants.

Plaintiffs¹ hereby submit the following status update in anticipation of the status conference scheduled for June 26, 2020. In sum, despite the Court's orders at the last status conference, Defendants have refused to provide document and page counts for responsive documents and have fallen far behind their own, self-imposed deadlines for production.² Accordingly, Plaintiffs propose that the Court bifurcate the WSO Request and the Gang Profiling Requests and order Defendants to **complete production for the WSO Request by July 31, 2020.**

¹ Defined terms shall have the same meaning as in Plaintiffs' complaint, D. 1.

² See D. 24 for a list of missed deadlines. That list is still accurate as of the date of this filing.

³ DHS “does not have an issue with the breadth” of the WSO Request, and ICE similarly “has no objections as to the breadth.” Email from Defendants’ counsel to Plaintiffs’ counsel, 6/23/2020.

Intelligence and Analysis (“I&A”) has identified 181 responsive documents. ICE also has responsive documents but has repeatedly refused to identify how many.⁴ Given this refusal, Plaintiffs respectfully ask the Court to order Defendants to **complete production for the WSO Request by July 31, 2020** and produce an accompanying *Vaughn index* by August 15, 2020.

Gang Profiling Request: In response to the Gang Profiling Request, which Plaintiffs submitted over a year ago, Defendants have reviewed and produced only 99 pages total. Defendants previously proposed a rate of production of 500 pages per month. D. 23 at 2. Their current rate of review and production for the Gang Profiling Request (fewer than 50 pages per month since April 10) represents less than 10% of their own proposed pace. Moreover, the government has now revealed that “[o]ther than its search for documents responsive to no. 10 as proposed, ICE has not searched for Gang Profiling documents,”⁵ even though it has proposed certain narrower searches for documents responsive to other categories.

Finally, despite the Court’s orders, Defendants have also failed to provide document and page counts for documents responsive to the Gang Profiling Request and have simply reiterated that these requests are unduly burdensome without providing any supporting evidence or quantification.⁶ Plaintiffs request that the Court impose a short deadline for Defendants to do so. Plaintiffs reiterate their proposal from the last status conference that Defendants respond to the following discrete categories of requests by **July 15, 2020**: #4 (East Boston High School documents), #7 (Operation Matador), and #10 (policy directives).

⁴ Defendants state that the total number of pages of ICE documents responsive to the WSO Request and part 10 of the Gang Profiling Request is 5,460, but they have repeatedly refused to separate the numbers.

⁵ Email from Defendants’ counsel to Plaintiffs’ counsel, 6/23/2020.

⁶ The one exception is the combined figure of 5,460 pages for the WSO Request and subpart #10 of the Gang Profiling Request. See n.3, *supra*.

Date: June 24, 2020

Respectfully Submitted,

/s/ Lauren Godles Milgroom
Joel Fleming (BBO# 685285)
Lauren Godles Milgroom (BBO# 698743)
Block & Leviton LLP
260 Franklin St., Suite 1860
Boston, MA 02110
(617) 398-5600
joel@blockesq.com
lauren@blockesq.com

*Attorneys for Plaintiffs, American Civil
Liberties Union Foundation of
Massachusetts and Lawyers for Civil Rights*

Matthew R. Segal (BBO #654489)
Daniel L. McFadden (BBO #676612)
American Civil Liberties Union
Foundation of Massachusetts, Inc.
211 Congress Street
Boston, MA 02110
(617) 482-3170
msegal@aclum.org
dmcfadden@aclum.org

Oren Nimni (BBO #691821)
Lawyers for Civil Rights
61 Batterymarch St.
Boston, MA 02110
(617) 988-0606
onimni@lawyersforcivilrights.org

CERTIFICATE OF SERVICE

I hereby certify that the foregoing will be filed through the electronic filing system of the Court, which system will serve counsel of record, on June 24, 2020.

/s/ Lauren Godles Milgroom
Lauren Godles Milgroom